

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MIGUEL ANGEL MARTINEZ
SANCHEZ,

Petitioner,

v.

ROBERT LUNA,

Respondent.

Case No. 2:24-cv-01418-FLA (SSC)

**ORDER ACCEPTING FINDINGS,
CONCLUSIONS, AND
RECOMMENDATIONS OF
UNITED STATES MAGISTRATE
JUDGE, DENYING
CERTIFICATE OF
APPEALABILITY, GRANTING
MOTION TO DISMISS [DKT. 16],
AND DENYING MOTION FOR
STAY [DKT. 13]**

Pursuant to 28 U.S.C. § 636, the court has reviewed the petition, all the records herein, and the Report and Recommendation of the United States Magistrate Judge. Further, the court has engaged in a *de novo* review of those portions of the Report to which objections have been made.

Petitioner is a defendant in a pending state court criminal action. The Report and Recommendation (“Report”) recommends that Respondent’s motion to dismiss be granted, that this action be dismissed without prejudice, and that Petitioner’s motion for stay of his state court proceedings be denied. Dkt. 28. Petitioner’s objections to the Report, Dkt. 29, do not warrant a change to the Report’s findings or recommendation.

1 Petitioner objects to the denial of his motion as untimely under California
2 Code of Civil Procedure § 170.6 for recusal of the presiding state court trial judge.
3 Dkt. 29 at 1. As the Report explained, this is a state-law claim that is not
4 cognizable in a federal habeas action. Dkt. 28 at 4-5. As the Report further
5 explained, even if it is assumed that the claim is cognizable, Petitioner failed to
6 allege that the state court trial judge was biased. *Id.* at 5-6. Petitioner did not detail
7 any alleged acts by the state court trial judge that would reflect improper personal
8 bias or favor toward the prosecution. *Id.*

9 The court accepts the findings and conclusions of the Magistrate Judge in the
10 Report and Recommendation.

11 **ORDER**

12 IT IS ORDERED that Respondent's motion to dismiss, Dkt. 16, is granted
13 and that judgment be entered dismissing this action without prejudice. IT IS
14 FURTHER ORDERED that Petitioner's motion for stay, Dkt. 13, is denied as
15 moot.

16 Further, the court finds that Petitioner has not made a substantial showing of
17 the denial of a constitutional right or that the court erred in its procedural ruling
18 and, therefore, a certificate of appealability will not issue in this action. *See* 28
19 U.S.C. § 2253(c)(2); Fed. R. App. P. 22(b); *Miller-El v. Cockrell*, 537 U.S. 322,
20 336 (2003); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

21
22 IT IS SO ORDERED.

23
24 DATED: February 18, 2025



25 FERNANDO L. AENLLE-ROCHA
26 United States District Judge
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